IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10197-2016
Date of decision: - 16.01.2020

Jaimal Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Tarun Kumar, Advocate
for Mr. Nitin Kaushal, Advocate
for respondents No.2 and 3.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the pensionary benefits of the petitioner have not been released by the respondents after his retirement without any valid justification and therefore, he prays that a direction be given to the respondents to release interest on the delayed payment of pensionary benefits.

As per the averments made in the writ petition, petitioner was appointed as a Conductor on daily wage basis with the PEPSU Road Transport Corporation on 22.10.1979 and his services were regularized

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on the said post on 22.01.1980. Thereafter, the petitioner got various promotions and ultimately, on attaining the age of superannuation, while working on the post of sub-inspector, petitioner retired from service on 30.04.2014. Petitioner has contended that there was no impediment in the release of the pensionary benefits, but still the same were not released by the respondents. As the pensionary benefits were not extended to the petitioner, he filed the present writ petition seeking direction to the respondent for the release of the pensionary benefits alongwith interest.

Upon notice of motion, respondents have filed their short reply. The relevant paragraph 4 of the said reply is as under: -

> "4. That the following amounts have already been released to the petitioner on account of retiral benefits: -
>
> a. GP Fund amounting to ₹2,95,291/- paid on 10.03.2015.
>
> b. Gratuity amounting to ₹5,80,240/- paid on 22.04.2016.
>
> c. Difference of gratuity amounting to ₹49,754/- paid on 22.04.2016.
>
> d. Leave Encashment amounting to ₹1,47,364/- paid on 09.06.2016.
>
> e. Arrears of revision of pay (01.01.2006) – ₹29,453 + 29453 (60%) all paid."

Learned counsel for the petitioner does not dispute the release of the pensionary benefits as stated in paragraph 4 of the above-said reply.

Learned counsel for the petitioner states that as the petitioner retired from service on 30.04.2014, whereas the pensionary benefits were released to him from March, 2015 onwards till June, 2016, he is entitled

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for interest.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The facts recorded above are not in dispute. Petitioner retired from service on 30.04.2014. The positive averment of the petitioner that there were no proceedings pending against him, which would entitle the respondents to withhold the pensionary benefits, has not been rebutted. In the short reply, which has been filed by the respondents, it has only been stated that pensionary benefits of the petitioner have been released.

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in '**A.S. Randhawa** **Vs**. **State of Punjab and others'**, **1997(3) SCT 468,** wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits is to be released within a reasonable time and the reasonable time fixed by the Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents for more than two months and that too without any justifiable reason, the employee will be entitled for interest. The relevant paragraph of the said judgment is as under: -

> "Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid

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> down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."

A Co-ordinate Bench of this Court in '**J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** is as under: -

> "The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

In the present case, the pensionary benefits have been released from March, 2015 onwards. GPF amounting to ₹2,95,291/- was paid on 10.03.2015; gratuity amounting to ₹6,29,994/- was paid on 22.04.2016; leave encashment amounting to ₹1,47,364/- was paid on 09.06.2016, and the arrears of revision of pay amounting to ₹58,906/- have also been paid, but no date has been mentioned in the reply. No justification has come forward for the delay in the release of the

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pensionary benefits. In the absence of any justification, it can be safely held that the delay in the release of the pensionary benefits is attributable to the respondents.

Under these circumstances, the case of the petitioner for the grant of interest is squarely covered by the abovesaid judgments as no point of differentiation has been stated by learned counsel for the respondents or brought to the notice of this Court, which would disentitle the petitioner to the benefit of the interest.

In view of the above, the writ petition is allowed. The petitioner is held entitled for interest @ 9% per annum from the date the amount became due till the release of the same.

Let the calculation of the amount of interest be done within a period of two months from the date of receipt of a certified copy of this order. The actual amount, so calculated, shall be released to the petitioner within one month thereafter.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 16, 2020
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Whether reasoned/speaking? Yes
Whether reportable? Yes

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